

SENATE BILL NO. 301

INTRODUCED BY M. COONEY

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE INDIVIDUAL INCOME TAX CREDIT FOR ENERGY-CONSERVING EXPENDITURES AND THE INDIVIDUAL INCOME TAX CREDIT FOR THE PURCHASE OF AN ENERGY SYSTEM USING CERTAIN NONFOSSIL FORMS OF ENERGY GENERATION; ALLOWING INDIVIDUAL INCOME TAX CREDITS FOR CERTAIN ENERGY-CONSERVING CAPITAL EXPENDITURES, INCLUDING FOR A RESIDENTIAL RENTAL BUILDING, TO BE CLAIMED BY SMALL BUSINESS AND PASS-THROUGH ENTITIES FOR THEIR SHAREHOLDERS AND OWNERS; ALLOWING THE CREDIT TO BE CLAIMED EVEN IF THE TAXPAYER HAS NO TAXABLE INCOME IN THE YEAR IN WHICH THE EXPENDITURE IS MADE; ALLOWING A CARRYFORWARD OF UNUSED CREDIT FOR UP TO 3 YEARS; AMENDING SECTIONS 15-32-109 AND 15-32-201, MCA; AND PROVIDING AN APPLICABILITY DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-32-109, MCA, is amended to read:

"15-32-109. Credit for energy-conserving expenditures. (1) Subject to the restrictions of ~~subsection (2)~~ subsections (3) through (5), a resident individual taxpayer may take a credit against the taxpayer's tax liability under chapter 30 for ~~25%~~ 50% of the taxpayer's expenditure for a capital investment in the physical attributes of a building, not including windows, or the installation purchase of a water, heating, lighting, or cooling system or for a high-efficiency refrigerator, dishwasher, or clothes washer in the building, so as long as either type of the investment is for an energy conservation purpose, in an amount not to exceed ~~\$500~~ \$1,250.

(2) Subject to the restrictions of subsections (3) through (5), a partnership, an S. corporation, or a disregarded entity may take a credit against the tax liability under Title 15, chapter 30, for 50% of the partnership's, S. corporation's, or disregarded entity's expenditure for a capital investment in the physical attributes of a residential rental building or the installation of a water, heating, lighting, refrigeration, or cooling system in the building, as long as the investment is for an energy conservation purpose, in an amount not to exceed \$2,500.

(3) A taxpayer may claim a credit under both subsection (1) and subsection (2), but each claim must be

1 related to separate expenditures and the taxpayer's total credit may not exceed \$1,250 in a tax year.

2 ~~(2)(4)~~ The ~~credit~~ credits under ~~subsection~~ subsections (1) and (2):

3 ~~—— (a) may not exceed the taxpayer's tax liability; and~~

4 ~~—— (b) is~~ are subject to the provisions of 15-32-104.

5 (5) The credits under subsections (1) and (2) may not exceed the taxpayer's tax liability. If the amount
6 of the tax credit under subsections (1) and (2) exceeds the taxpayer's income tax liability for the tax year, the
7 amount that exceeds the tax liability may be carried forward for taxes imposed in the next 3 succeeding tax years.
8 The credit may be claimed for the tax year in which the expenditure was made even if the claimant has no taxable
9 income.

10 (6) If the credit allowed under this section is claimed by a partnership, an S. corporation, or a disregarded
11 entity, the credit must be attributed to shareholders, partners, or other owners, using the same proportion used
12 to report the partnership's, S. corporation's, or disregarded entity's income or loss for Montana income tax
13 purposes.

14 (7) By December 31, 2009, the department shall consult with the department of environmental quality
15 and publish a list of expenditures eligible for the credit in subsection (2) that provide the greatest reduction in
16 energy usage in residential buildings. Expenditures not identified in the list are not eligible for the credit in
17 subsection (2) unless the taxpayer can show to the satisfaction of the department that the expenditure is as
18 effective at reducing energy usage as those on the list."

19
20 **Section 2.** Section 15-32-201, MCA, is amended to read:

21 **"15-32-201. Amount of credit -- to whom available.** (1) A resident individual taxpayer who completes
22 installation of an energy system using a recognized nonfossil form of energy generation, as defined in 15-32-102,
23 in the taxpayer's principal dwelling ~~after December 31, 2004~~, is entitled to claim a tax credit against the income
24 tax liability imposed against the taxpayer pursuant to Title 15, chapter 30, for the tax year in which the expenditure
25 was made in an amount equal to the cost of the system, including installation costs, less grants received, not to
26 exceed ~~\$500~~ \$2,500, ~~against the income tax liability imposed against the taxpayer pursuant to chapter 30.~~

27 (2) A resident individual taxpayer who completes installation of an energy system using a low-emission
28 wood or biomass combustion device, as defined in 15-32-102, in the taxpayer's principal dwelling ~~after December~~
29 ~~31, 2004~~, is entitled to claim a tax credit against the income tax liability imposed against the taxpayer pursuant
30 to Title 15, chapter 30, for the tax year in which the expenditure was made in an amount equal to 50% of the cost

1 of the system, including the installation costs, not to exceed \$500, against the income tax liability imposed against
2 the taxpayer pursuant to Title 15, chapter 30."

3
4 NEW SECTION. Section 3. Applicability. (1) [This act] applies to tax years beginning after December
5 31, 2009.

6 (2) Upon termination as provided in [section 4], any carryover tax credits under 15-32-109(5) that remain
7 unclaimed may be claimed until the expiration of the carryforward period of the credit.

8
9 NEW SECTION. Section 4. Termination. [This act] terminates January 1, 2013.

10 - END -